

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CHRISTOPHER GRAVELINE, et al.,

Plaintiffs,

v.

Case No. 18-12354  
Honorable Victoria A. Roberts

JOCELYN BENSON, in her official  
capacity as Michigan Secretary  
of State, et al.,

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE PLAINTIFFS' MOTION  
FOR ATTORNEY FEES AND LITIGATION EXPENSES [ECF No. 56]**

Judgment entered in favor of Plaintiffs on December 22, 2019.

Defendants filed a motion to alter or amend the Court's findings on January 21, 2020. On that same day, Michigan Attorney General Nessel filed a motion to intervene.

On March 19, 2020, the Court denied Defendants' motion to alter or amend the Court's findings, and – in an order entered earlier – the Court granted Nessel's motion to intervene.

On April 16, 2020, Plaintiffs filed a motion for attorney fees and litigation expenses [ECF No. 56]; they say they are entitled to fees and

expenses under 42 U.S.C. § 1988 and Fed R. Civ. P. 54(d) because they are “prevailing parties.”

Four days later, on April 20, 2020, Defendants and Nessel filed notices of appeal. Defendants’ appeal is limited to only the remedy granted by the Court. Nessel’s appeal is a full appeal on the merits.

The outcome of the appeal will make this version of Plaintiffs’ motion for attorney fees and expenses outdated and/or moot. If the Court is affirmed on appeal, Plaintiffs would likely want to supplement its motion to include hours billed on appeal. If the Sixth Circuit vacates the judgment and reverses this Court, Plaintiffs no longer would be considered the prevailing parties.

Thus, the Court **DENIES WITHOUT PREJUDICE** Plaintiffs’ motion for attorney fees and expenses [ECF No. 56].

Following the appeal, Plaintiffs may refile their motion for attorney fees; they may update it to request fees incurred on appeal that they believe are recoverable.

s/ Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: May 6, 2020